

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.1 Body corporate.

Sec. 1. Each organized city shall be a body corporate.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3304;—CL 1929, 2228;—CL 1948, 117.1.

Constitutionality: Act 203 of 1911, which amended the title of this act and §§ 117.2, 117.4, 117.5, 117.18, 117.19, 117.20, 117.21, 117.25, and 117.28, and which added § 117.37, was held unconstitutional in its entirety in *Gallup v. Saginaw*, 170 Mich. 195, 135 N.W. 1060 (1912). See also *Attorney General v. Detroit*, 168 Mich. 249, 133 N.W. 1090 (1912); *Common Council of Detroit v. Engel*, 187 Mich. 88, 153 N.W. 537 (1915).

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117.2 Saving clause.

Sec. 2. Each city now existing shall continue with all its present rights and powers until otherwise provided by law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3305;—CL 1929, 2229;—CL 1948, 117.2.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 2. Each city now existing shall continue with all its present rights and powers except as herein otherwise provided."

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117.3 Mandatory charter provisions.

Sec. 3. Each city charter shall provide for all of the following:

(a) The election of a mayor, who shall be the chief executive officer of the city, and of a body vested with legislative power, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary. The city charter may provide for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan, or preferential ballot, or by any other legal method of voting. Notwithstanding another law or charter provision to the contrary, a city having a 1970 official population of more than 150,000, whose charter provides for terms of office of less than 4 years, and in which the term of office for the mayor and the governing body are of the same length, may provide by ordinance for a term of office of up to 4 years for mayor and other elected city officials. The ordinance shall provide that the ordinance shall take effect 60 days after it is enacted unless within the 60 days a petition is submitted to the city clerk signed by not less than 10% of the registered electors of the city requesting that the question of approval of the ordinance be submitted to the electors at the next regular election or a special election called for the purpose of approving or disapproving the ordinance.

(b) The nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

(c) The time, manner, and means of holding elections and the registration of electors, subject to section 26 and other applicable requirements of law.

(d) The qualifications, duties, and compensation of the city's officers. If the city has an appointed chief administrative officer, the legislative body of the city may enter into an employment contract with the chief administrative officer extending beyond the terms of the members of the legislative body unless the employment contract is prohibited by the city charter. An employment contract with a chief administrative officer shall be in writing and shall specify the compensation to be paid to the chief administrative officer, any procedure for changing the compensation, any fringe benefits, and other conditions of employment. The contract shall state if the chief administrative officer serves at the pleasure of the legislative body, and the contract may provide for severance pay or other benefits in the event the chief administrative officer's employment is terminated at the pleasure of the legislative body.

(e) The establishment of 1 or more wards, and if the members of the city's legislative body are chosen by wards, for equal representation for each ward in the legislative body.

(f) That the subjects of taxation for municipal purposes are the same as for state, county, and school purposes under the general law.

(g) The annual laying and collecting taxes in a sum, except as otherwise provided by law, not to exceed 2% of the taxable value of the real and personal property in the city. Unless the charter provides for a different tax rate limitation, the governing body of a city may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the taxable value of the real and personal property in the city. As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL

211.27a.

(h) An annual appropriation of money for municipal purposes.

(i) The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

(j) The public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, or township, or another city for services considered necessary by the legislative body. Public peace, health, and safety services may include the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers.

(k) Adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative. Whether or not provided in its charter, instead of publishing a true copy of an ordinance before it becomes operative, the city may publish a summary of the ordinance. If the city publishes a summary of the ordinance, the city shall include in the publication the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. A charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a city may adopt a provision of a state statute for which the maximum period of imprisonment is 93 days or the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. Except as otherwise provided under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, a city may adopt a law, code, or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, an international property maintenance code, or a code pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated or adopted by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public. A city shall not enforce a provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(l) That the business of the legislative body shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Keeping in the English language a written or printed journal of each session of the legislative body.

(n) A system of accounts that conforms to a uniform system of accounts as required by law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3006;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2230;—Am. 1947, Act 344, Eff. Oct. 11, 1947;—Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948;—CL 1948, 117.3;—Am. 1949, Act 43, Eff. Sept. 23, 1949;—Am. 1960, Act 14, Imd. Eff. Apr. 13, 1960;—Am. 1967, Act 43, Eff. Nov. 2, 1967;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1977, Act 204, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 241, Imd. Eff. June 15, 1978;—Am. 1979, Act 59, Imd. Eff. July 18, 1979;—Am. 1991, Act 182, Imd. Eff. Dec. 27, 1991;—Am. 1993, Act 207, Imd. Eff. Oct. 19, 1993;—Am. 1999, Act 256, Imd. Eff. Dec. 28, 1999;—Am. 1999, Act 260, Eff. Dec. 29, 1999;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002;—Am. 2003, Act 303, Eff. Jan. 1, 2005;—Am. 2004, Act 541, Imd. Eff. Jan. 3, 2005.

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117.5 Prohibited powers.

Sec. 5. A city does not have power:

(a) To increase the rate of taxation now fixed by law, unless the authority to do so is given by a majority of the electors of the city voting at the election at which the proposition is submitted, but the increase in any case shall not be in an amount as to cause the rate to exceed 2%, except as provided by law, of the assessed value of the real and personal property in the city.

(b) To submit to the electors a charter more often than once in every 2 years, nor unless the charter is filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities that may be incorporated under this act until they shall have first adopted a charter. Where a city submits to the electors a charter and the charter is adopted by the electors, and the city has operated under the charter, which charter has not, at the time it is adopted, been on file with the city clerk 60 days, then the legislative body of the city, upon its giving the notice of election as provided in the charter, may resubmit to the electors, at a special or general election, the charter, which, if adopted by the electors, shall be considered operative and effective as of the date of the first submission and adoption. The charter shall not be resubmitted unless 60 days have elapsed between the date of the filing of the charter and the date of the election at which the charter is resubmitted.

(c) To call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters of cities that may be incorporated under this act until they have first adopted a charter, and does not apply to elections that may be held in the resubmission of a charter once adopted as provided in subdivision (b).

(d) To decrease the salary of a municipal judge after his or her election or appointment, or during the judge's term of office, notwithstanding any charter provision to the contrary. The term of a public official shall not be shortened or extended beyond the period for which the official is elected or appointed, unless he or she resigns or is removed for cause, if the office is held for a fixed term.

(e) To adopt a charter or an amendment to the charter unless approved by a majority of the electors voting on the question; to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city; to engage in a business enterprise requiring an investment of money in excess of 10 cents per capita; or to authorize an issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made; bonds that the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law; special assessment bonds; bonds for the city's portion of local improvements; refunding bonds; emergency bonds as defined by this act; and bonds that the legislative body is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the question at a general or special election. In addition, a city that now has, or may subsequently have, a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the ad valorem taxes levied for the same year, exclusive of debt service taxes or taxes levied pursuant to other laws, will not exceed 2-1/2% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. For the purposes of this subdivision only, the assessed value of real and personal property in any city shall include the assessed value equivalent of money received during the city's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The assessed value equivalent shall be calculated by dividing the money received by the city's millage rate for the fiscal year. Notwithstanding the former provisions of this subdivision requiring approval by 3/5 of the electors voting on the question as a prerequisite to the exercise of certain powers, these powers may be exercised if approved by a majority of the electors voting on the question at a general or special election held on or after April 1, 1966.

(f) To make a contract with, or give an official position to, one who is in default to the city.

(g) To issue bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g(1), but sinking funds shall not be required in the case of serial bonds that fall due annually. Bonds, whether authorized under this act or any other act, except refunding bonds, revenue bonds, motor vehicle highway fund bonds, rehabilitation bonds, judgment bonds, bonds or other obligations issued to fund an operating deficit of a city, bonds or other obligations to pay premiums or to establish funds to self-insure for losses as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, bonds the issuance of which has been approved by the voters, and bonds issued to comply with an order of a court of competent jurisdiction shall not be issued by a city unless notice of the issuance of the bonds is published once in a newspaper of general circulation in the city at least 45 days before the issuance of the bonds, within which period a petition may be filed with the legislative body signed by not less than 10% or 15,000 of the registered electors in the city, whichever is less, in which event the legislative body shall submit the question of the issuance of the bonds to the electors of the city, at a regular or special election in the city. The bonds shall not be issued unless a majority vote of the electors voting on the issuance vote in favor of issuing the bonds. The notice of intent to issue bonds shall state the maximum amount of the bond issue, the purpose of the bond issuance, source of payment, right of referendum on the issuance of the bonds, and other information as the legislative body determines to be necessary to adequately inform the electors and all other interested persons

of the nature of the issue and of their rights with respect to the issue.

(h) To repudiate a debt by a change in its charter or by consolidation with any other municipality.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, is paid in advance to the city treasurer by the grantee in the franchise.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3308;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1919, Act 240, Eff. Aug. 14, 1919;—Am. 1923, Act 119, Imd. Eff. May 2, 1923;—Am. 1929, Act 126, Eff. Aug. 28, 1929;—CL 1929, 2241;—Am. 1935, Act 239, Imd. Eff. June 8, 1935;—Am. 1941, Act 60, Eff. Jan. 10, 1942;—Am. 1948, 1st Ex. Sess., Act 44, Eff. Aug. 20, 1948;—CL 1948, 117.5;—Am. 1949, Act 207, Eff. Sept. 23, 1949;—Am. 1965, Act 65, Eff. Mar. 31, 1966;—Am. 1966, Act 32, Imd. Eff. May 17, 1966;—Am. 1966, Act 350, Imd. Eff. Dec. 21, 1966;—Am. 1969, Act 41, Imd. Eff. July 17, 1969;—Am. 1972, Act 8, Imd. Eff. Feb. 17, 1972;—Am. 1973, Act 81, Imd. Eff. July 31, 1973;—Am. 1976, Act 178, Imd. Eff. June 30, 1976;—Am. 1981, Act 81, Imd. Eff. July 1, 1981;—Am. 1988, Act 268, Imd. Eff. July 15, 1988;—Am. 2002, Act 201, Imd. Eff. Apr. 29, 2002.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows:

“Sec. 5. No city shall have power:

“(a) To lay and collect taxes in a sum in excess of two per centum per annum of the assessed value of the real and personal property in such city;

“(b) To submit to the electors a charter or to resubmit any amendment thereto oftener than once in every two years, nor unless it shall be filed with the city or village clerk ninety days before the election: Provided, however, That this provision shall not apply to the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

“(c) To call more than two special elections within one year: Provided, however, That this prohibition shall not apply to elections which may be held in the submission and resubmission of charters of cities which may be incorporated under this act until they shall have first adopted a charter;

“(d) To change the salary or emoluments of any public official after his election or appointment or during his term of office;

“(e) To adopt a charter or any amendment thereto, unless approved by a majority of the electors voting thereon; to sell any property of a value in excess of ten cents per capita according to the last preceding United States census, or any park, cemetery, or any real estate used in carrying on a public utility, or any part thereof, or any property bordering on a water front, or vacate any street or public place leading to a water front, or engage in any business enterprise requiring an investment of money in excess of ten cents per capita, or authorize any issue of bonds except special assessment bonds, refunding bonds, and emergency bonds as defined by this act and bonds that it is annually authorized to issue, unless approved by three-fifths of the electors voting thereon at any general or special election;

“(f) To make any contract with, or give any official position to one who is in default to the city;

“(g) To issue any bonds without providing a sinking fund, to pay them at maturity, but no sinking fund shall be required in the case of serial bonds which fall due annually;

“(h) To repudiate any debt by any change in its charter or by consolidation with any other municipality;

“(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, shall be paid in advance by the grantee in said franchise to the city treasurer.”

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117.6 Incorporation, consolidation, or alteration of boundaries; petition; signatures; deposit; enumeration.

Sec. 6. Cities may be incorporated or territory detached therefrom or added thereto, or consolidation made of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city, or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, by proceedings originating by petition therefor signed by qualified electors who are freeholders residing within the cities, villages, or townships to be affected thereby, to a number not less than 1% of the population of the territory affected thereby according to the last preceding United States census, or according to a census to be taken as hereinafter provided, which number shall be in no case less than 100, and not less than 10 of the signatures to such petition shall be obtained from each city, village, or township to be affected by the proposed change: Provided, That in the incorporation of a city from an existing village without change of boundaries the requisite number of signatures may be obtained from throughout the village without regard to the townships in which the signers are residents: Provided further, That as an alternate method in the case of an annexation proceeding in which there are less than 10 persons qualified to sign the petition living in that unincorporated territory of any township or townships proposed to be annexed to a city, that the signatures on the petition of persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold equitable title as vendees under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 of the area of the land exclusive of streets, in the territory to be annexed at the time of filing the petition, will suffice in lieu of obtaining 10 signatures from the township in which such area to be annexed lies: And provided further, That on such petition each signature shall be followed by a description of the land and the area represented thereby and a sworn statement shall also accompany such petition giving the total area of the land, exclusive of streets, lying within the area proposed to be annexed: Provided further, That before any signatures are obtained on a petition as hereinbefore provided, such petition shall have attached to it a map or drawing showing clearly the territory

proposed to be incorporated, detached, or added, and each prospective signer shall be shown such map or drawing before signing the petition. Such petition shall be verified by the oath of 1 or more petitioners. The county clerk upon the presentment of a petition for incorporation of a new city for filing shall forthwith estimate all necessary expense that may be incurred by the county in the incorporation proceedings, and the clerk thereupon shall require that the sum so estimated, which in no case shall exceed \$500.00, be deposited with the clerk and shall refuse to accept the petition for filing until the sum is so deposited: Provided, That in proceedings for the incorporation of a new city or the consolidation of 2 or more cities or villages into 1 city, or of a city and 1 or more villages into 1 city or of 1 or more cities or villages together with additional territory not included within any incorporated city or village into 1 city, a petition signed by not less than 100 qualified electors who are freeholders residing within the territory so proposed to be incorporated or consolidated, praying for the taking of a census of the inhabitants of the territory affected thereby, may be filed with the county clerk of the county within which said territory is located. The county clerk shall, within 5 days after the filing of such petition, certify to the mayor of each city, president of each village, and supervisor of each township affected thereby, and to the secretary of state that such petition has so been filed. Within 5 days after the service of such certificate, the secretary of state shall appoint an enumerator or enumerators to enumerate the inhabitants of each such city, village, and the portion of each township proposed to be so incorporated, or a consolidation made thereof. Before entering upon the duties of said office, each such enumerator shall take and subscribe to the constitutional oath of office before some officer authorized to administer oaths and file the same with the secretary of state and with the county clerk of the county in which such territory is located. It shall be the duty of each enumerator so appointed to enumerate all of the bona fide inhabitants of such city, village, or township, territory or portion thereof assigned to the enumerator by the secretary of state and to visit each house or dwelling and to obtain the names of each known resident thereof. The city, village, or township within which the services of the enumerator are rendered shall pay for such services together with any actual and necessary expenses incurred by the enumerator. The rate of pay and actual and necessary expenses of the enumerator shall be set by the governing body of the city, village, or township in which the census takes place. Upon completing such enumeration it shall be the duty of the persons so appointed to make a return in duplicate of such enumeration showing the names of the inhabitants of each such city, village, or township, territory or district to the county clerk and to the secretary of state. No such enumeration or census shall be conducted in any city, village or township, or portion thereof, within 2 years of the date of the last enumeration in such territory. Every such enumeration shall be conducted under the general supervision and control of the secretary of state who is hereby empowered to make rules and regulations for the purpose of carrying out the provisions of this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3309;—Am. 1919, Act 84, Eff. Aug. 14, 1919;—CL 1929, 2242;—Am. 1931, Act 314, Imd. Eff. June 16, 1931;—Am. 1939, Act 231, Eff. Sept. 29, 1939;—Am. 1947, Act 334, Eff. Oct. 11, 1947;—CL 1948, 117.6;—Am. 1956, Act 77, Eff. Aug. 11, 1956;—Am. 1957, Act 210, Eff. Sept. 27, 1957;—Am. 1984, Act 352, Eff. Mar. 29, 1985.

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117.7 Incorporation, consolidation or alteration of boundaries; fifth class cities; population requisites; representation on board of supervisors.

Sec. 7. Said petition shall accurately describe the proposed boundaries of the city, or of the territory to be annexed thereto or detached therefrom, and if the purpose is to incorporate a new city, it shall represent that the territory described contains not less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile: Provided, That all incorporated villages in which a county seat is located are hereby authorized to incorporate under the provisions of this act as cities of the fifth class, without respect to the population of the territory included therein: Provided further, That any incorporated village having a population of more than 750 and less than 2,000 inhabitants, or any incorporated village lying within more than 1 township in the same county having a population of more than 600 and less than 2,000 inhabitants, or any territory containing a population of more than 750 and less than 2,000 inhabitants and an average of not less than 500 inhabitants per square mile may incorporate under the provisions of this act as cities of the fifth class. Such cities shall constitute but 1 voting precinct except in cities lying within more than 1 county and the mayor thereof, or whenever provided by resolution of the legislative body of any such city, the city attorney, city manager, or city superintendent shall be among the representatives of the city on the board of supervisors of the county or counties: Provided further, Whenever in the process of incorporating a city of the fifth class and adopting a charter therefor, it shall be disclosed by an official census that the population exceeds 2,000 inhabitants, then all proceedings theretofore taken shall be deemed to be for a non fifth class city under this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3310;—Am. 1917, Act 286, Eff. Aug. 10, 1917;—Am. 1923, Act 196, Eff. Aug. 30, 1923;—Am. 1927, Act 303, Imd. Eff. June 1, 1927;—CL 1929, 2243;—Am. 1947, Act 91, Eff. Oct. 11, 1947;—CL 1948, 117.7;—Am. 1951, Act 40, Eff. Sept. 28, 1951;—Am. 1953, Act 175, Eff. Oct. 2, 1953;—Am. 1955, Act 33, Eff. Oct. 14, 1955.

THE HOME RULE CITY ACT (EXCERPT)

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117.8 Incorporation, consolidation, or alteration of boundaries; petition; filing; resolution; adoption.

Sec. 8. (1) Subject to subsections (2) and (3), a petition filed under section 6 shall be addressed to the county board of commissioners of the county in which the territory to be affected by the proposed incorporation, consolidation, or change of boundaries is located, and shall be filed with the clerk of the county board of commissioners not less than 30 days before the convening of the board in regular session, or in any special session called for the purpose of considering the petition. The county board of commissioners shall by resolution determine whether the petition complies with the requirements of this act and whether the statements contained in the petition are correct. If a majority of the board determines that the petition does not comply with the requirements of this act or that the statements contained in the petition are not correct, the board shall not conduct further proceedings on the petition. Subject to subsection (4), if the board determines that the petition complies with the requirements of this act and that the statements contained in the petition are correct, the board shall, by resolution, provide that the question of making the proposed incorporation, consolidation, or change of boundaries be submitted to the qualified electors of the district to be affected at the next general election or at a special election before the next general election. The question shall not be submitted at an election to be held less than 60 days after the adoption of the resolution.

(2) If it is proposed to incorporate an incorporated village as a city without change of boundaries, both of the following apply:

(a) The initiatory petition provided for under section 6 shall be addressed to the village council or other legislative body of the village and shall be filed with the village clerk at least 30 days before final action is taken on the petition.

(b) The powers and duties of the county board of commissioners and county clerk under subsection (1) are assigned to the village council and village clerk, respectively.

(3) A petition covering the same territory, or part of the same territory, shall not be considered by the county board of commissioners more often than once in every 2 years, unless the petition is signed by not less than 35% of taxpayers whose names appear on the latest assessment rolls under the requirements of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, as being assessed for real property taxes within the area proposed to be annexed. The assessing officers who are charged with the duty of assessing real property within the area proposed to be annexed shall report as of the date on which the petition is filed the total number of names on the rolls, within that area, to the clerk of the county board of commissioners not more than 14 days after the filing date.

(4) A vote is not required if the city owns the land sought to be annexed.

(5) After the adoption of a resolution under subsection (1) submitting a question to a vote of the electors, neither the sufficiency nor legality of the petition under section 6 may be questioned in any proceeding.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3311;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2244;—CL 1948, 117.8;—Am. 1953, Act 169, Eff. Oct. 2, 1953;—Am. 1955, Act 147, Imd. Eff. June 7, 1955;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

THE HOME RULE CITY ACT (EXCERPT)

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117.9 Incorporation, consolidation, or change of boundaries; governing law; affected district; petition or resolution for annexation; voting; duties of commission.

Sec. 9. (1) In the event of a conflict between the provisions of this act and 1968 PA 191, MCL 123.1001 to 123.1020, regarding an incorporation or consolidation, the provisions of 1968 PA 191, MCL 123.1001 to 123.1020, shall govern. The district to be affected by the proposed incorporation, consolidation, or change of boundaries is considered to include the whole of each city, village, or township from which territory is to be taken or to which territory is to be annexed. When a territory is proposed to be incorporated as a city only the residents of the territory to be incorporated shall vote on the question of incorporation. When a petition signed by the appropriate agency designated by the state administrative board which holds legal title to the entire area of the land in the territory adjacent to the city to be annexed, is filed with the governing body of the city and township in which the territory is situated, the annexation may be accomplished by the affirmative majority vote of the governing body of the city and the approval of the township board of the township.

(2) Except as provided in subsections (1) and (8), a petition or resolution for annexation of territory shall be filed with the state boundary commission created under 1968 PA 191, MCL 123.1001 to 123.1020. The commission, after determining the validity of the petition or resolution, shall hold a public hearing in or reasonably near the area proposed for annexation. The commission in processing and approving, denying, or revising a petition or resolution for annexation shall have the same powers and duties as provided under 1968 PA 191, MCL 123.1001 to 123.1020, relating to petitions which propose incorporations. In addition to providing notice to property owners located in the area proposed for annexation, the commission shall also give notice of each public hearing held under this subsection to property owners located within 300 feet of the area proposed for annexation by certified mail not less than 30 days before the date of the public hearing. Not less than 45 days before the date of the public hearing, the local unit of government capable of producing the information required under this section shall provide the state boundary commission with a list of the names and addresses of all persons the commission is required to provide notice to under this subsection. The commission is required to provide notice only to the property owners included on the list provided by the local unit of government as required under this section.

(3) If an annexation is denied by the commission, the commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected.

(4) If an annexation is approved, and if on the date the petition or resolution was filed 100 persons or less resided in the area approved for annexation, the commission's order shall not be subject to a referendum. The commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected and to the secretary of state. The annexation shall be effective on a date set forth in the commission's order.

(5) If an annexation is approved, and if on the date the petition or resolution was filed more than 100 persons resided in the area approved for annexation, the commission shall send a certified copy of its order to the clerk of each county, city, village, and township affected and to the secretary of state. The commission's order shall become final 30 days after the date of the order unless within that 30 days a petition is filed with the commission which contains the signatures of at least 25% of the registered electors residing in the portion of the territory approved for annexation, in the annexing city or in the balance of the township. The commission after verifying the validity of any referendum petition shall order that a referendum on the question of annexation be held in each area from which a valid petition was filed. If a valid petition is not filed within the 30 days or if the majority of the electorate voting on the question in each area in which a referendum was held, voting separately, approve the annexation, the annexation shall be effective on a date set by order of the commission, otherwise the annexation shall not take effect.

(6) The commission shall reject a petition or resolution for annexation of territory that includes all or any part of the territory which was described in any petition or resolution for annexation filed within the preceding 2 years and which was denied by the commission or was defeated in an election under subsection (5).

(7) In addition to the methods for initiating annexation as provided in this act, a petition or resolution as follows may be submitted to the state boundary commission in a form and manner prescribed by the commission:

(a) By resolution of the legislative body of the city to which the area is proposed to be annexed.

(b) By petition by the persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold equitable title as a vendee under a recorded land contract or memorandum of land contract, or record title to 75% or more of the area of the land exclusive of streets in the territory proposed for annexation at the time of filing the petition.

(c) By petition by 20% of the registered electors who reside in the area proposed for annexation.

(8) Where the territory proposed to be annexed to any city is adjacent to the city and consists of a park or vacant property located in a township and owned by the city annexing the territory, and there is no one residing in the territory, the territory may be annexed to the city solely by resolution of the city council of the city. In any case where the territory proposed to be annexed is adjacent to the city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city, village, or township, the annexation may also be accomplished by the majority vote of the legislative body of the city and the approval of the legislative body of the adjoining city, village, or township. As an alternate method, where there are no qualified electors residing in the territory proposed to be annexed to the city, other than the person or persons petitioning, a petition signed by a person or persons, firms, corporations, the United States government, or the state or any of its subdivisions who collectively hold the equitable title as a vendee under a recorded land contract or memorandum of land contract, or record legal title to more than 1/2 of the area of the land in the territory to be annexed is filed with the city council of the city and with the township board of the township in which the territory is situated, the annexation may be accomplished by the affirmative majority vote of the city council of the city and the approval of the township board of the

township. At least 10 days prior to the approval by the township board, the township treasurer shall notify, personally or by registered mail with return receipt demanded, the owners of all real property in the territory to be annexed as shown on the assessment rolls of the township at the last known address on file with the township treasurer. Except as otherwise provided, this section shall not be construed to give any city the authority to attach territory from any other city unless the question relative to the territory has been voted upon by the voters of the entire cities affected where the territory proposed to be annexed is adjacent to a city and consists of property owned by the city or consists of fractional parts of platted subdivision lots, located in an adjoining city.

(9) The provisions of section 14 shall not be applicable to an annexation approved by the commission of part of a township or village to a city except in the event of outstanding bonds or other evidences of indebtedness of the township or village. In such event, the commission shall determine and order an equitable division of assets and liabilities which relate to the bonds or other indebtedness.

(10) The provisions of sections 8 and 8a shall not be applicable to petitions or resolutions filed with the state boundary commission.

(11) After March 31, 1971, and so long as 1968 PA 191, MCL 123.1001 to 123.1020, is in effect, annexation of territory from a township or village to a home rule city shall be as provided in this section and no other means of annexation shall be effective.

(12) The state boundary commission shall mail a copy of any final order issued under this section to each property owner the commission is required to provide notice to under subsection (2).

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3312;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—Am. 1925, Act 337, Eff. Aug. 27, 1925;—CL 1929, 2245;—Am. 1931, Act 314, Imd. Eff. June 16, 1931;—Am. 1935, Act 48, Imd. Eff. May 6, 1935;—Am. 1947, Act 36, Eff. Oct. 11, 1947;—Am. 1947, Act 334, Eff. Oct. 11, 1947;—CL 1948, 117.9;—Am. 1951, Act 58, Eff. Sept. 28, 1951;—Am. 1956, Act 68, Eff. Aug. 11, 1956;—Am. 1970, Act 219, Eff. Apr. 1, 1971;—Am. 1984, Act 352, Eff. Mar. 29, 1985;—Am. 2004, Act 137, Imd. Eff. June 10, 2004.

Constitutionality: This section, the enabling legislation which grants the state boundary commission authority over annexation petitions or resolutions, is constitutional. *Midland Township v. State Boundary Commission*, 401 Mich. 641, 259 N.W. 2d 326 (1977).

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.10 Certified copies of petition and resolution; transmittal; election notices.

Sec. 10. The county clerk shall, within 3 days after the passage of the resolution provided for in section 8 of this act, transmit a certified copy of said petition and of such resolution to the clerk of each city, village or township in the district to be affected by the proposed incorporation, consolidation or change, and it shall be the duty of each of said city, village and township clerks to give notice of the date and purpose of the election provided for by said resolution by publication in 1 or more newspapers published within said district at least once in each week for 4 weeks preceding said election, and by posting a like notice in at least 10 public places in said district not less than 10 days prior to such election.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3313;—CL 1929, 2246;—CL 1948, 117.10.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.11 Petition for incorporation, consolidation, or change of boundaries; affidavit; filing with secretary of state; certification; notice; election.

Sec. 11. (1) If the territory to be affected by a proposed incorporation, consolidation, or change of boundaries is situated in more than 1 county, the petition under section 6 shall be addressed and presented to the secretary of state. The petition shall be accompanied by 1 or more affidavits by 1 or more of the signers of the petition showing all of the following:

(a) That the statements contained in the petition are true.

(b) That each signature affixed to the petition is the actual signature of a qualified elector residing in a city, village, or township to be affected by the carrying out of the purposes of the petition.

(c) That not less than 25 of the petition signers reside in each city, village, or township to be affected.

(2) The secretary of state shall examine the petition and the accompanying affidavit or affidavits. If the secretary of state finds that the petition and accompanying affidavit or affidavits comply with the requirements of this act, he or she shall so certify and shall transmit the certificate and a certified copy of the petition and the accompanying affidavit or affidavits to the clerk of each city, village, or township to be affected by the proposal, together with a notice directing that the question of making the incorporation, consolidation, or change of boundaries petitioned for shall be submitted to the electors of the district to be affected. The notice shall provide that the question shall be submitted at the next general election or at an

election before the next general election. However, the question shall not be submitted at an election to be held less than 60 days after the date of transmittal of the certificate.

(3) If the secretary of state finds that the petition and the accompanying affidavit or affidavits do not comply with the requirements of this act, he or she shall certify to that fact and shall return the petition and affidavits to the person from whom they were received, along with the certificate.

(4) The city, village, and township clerks who receive from the secretary of state the copies and certificates provided for in subsection (2) shall give notice of the election to be held on the question of making the proposed incorporation, consolidation, or change of boundaries as provided for in section 10.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3314;—CL 1929, 2247;—CL 1948, 117.11;—Am. 1956, Act 41, Imd. Eff. Mar. 28, 1956;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

THE HOME RULE CITY ACT (EXCERPT) **Act 279 of 1909**

117.12 Election returns; canvass; village clerk, duties.

Sec. 12. The returns by the several boards of election inspectors shall be made to the clerk of the county in which the city or proposed city, or the greater part thereof, if in more than 1 county, is located, and shall be canvassed on the first Thursday following said election in the manner provided by law for a county canvass: Provided, That if the purpose is to incorporate 1 village as a city the returns shall be made to the village clerk, and the vote canvassed the same as in other village elections, and in such case all duties which it is provided in this act shall be performed by the county clerk shall devolve upon the village clerk, and all petitions, certificates or other papers or documents provided in this act to be filed with the county clerk shall be filed with the village clerk, and all expenses to be borne by the county according to the provisions of said section shall be borne by the village.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3315;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2248;—CL 1948, 117.12.

THE HOME RULE CITY ACT (EXCERPT) **Act 279 of 1909**

117.13 Effective date of incorporation, consolidation, attachment or detachment; certificate of board of county canvassers; representation, transfer of property, governmental function.

Sec. 13. On the filing in the office of the secretary of state and the clerk of the county or counties within which the city or proposed city is located, of a copy of the petition, and of every resolution, affidavit or certificate necessarily following such petition, with the certificate of the board of county canvassers attached, showing that the purposes of such petition have been approved by a majority of the electors voting thereon, as provided in this act, which shall also give the number of votes cast on such proposition and the number cast for and against the same, the territory described in said petition shall be duly and legally consolidated as 1 city, or attached to or detached from the city named in such petition, as the case may be, and such petition and the subsequent proceedings thereunder shall be duly recorded in each of said offices in a book to be kept for that purpose, and either of such records or certified copies thereof shall be prima facie evidence of the consolidation or change of boundaries prayed for in such petition. Territory detached from any city shall thereupon become a part of the township or village from which it was originally taken: Provided, however, That when an incorporated city or village is annexed to and incorporated with a city, such annexed territory shall constitute 1 or more separate wards of the city to which it is annexed and have representation in the legislative body of such city to which it is annexed: Provided, The territory so annexed shall have a population equivalent to the approximate population of 1 or more wards of the city to which it is annexed: Provided, however, That in the case of annexation of part of a township to a city, the effective date of such annexation shall be 60 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 30 days after the election, and in the case of annexation of an entire township to a city the effective date of the annexation shall be 90 days after the date of the election unless the board of supervisors of the county shall by resolution fix another date not less than 45 days after the date of the election: Provided further, That in case of a vote on the incorporation of a new city, such proposed city shall not be deemed incorporated until a charter has been adopted and filed as hereinafter provided: Provided further, That no property, real or otherwise, owned by any such governmental unit or portion thereof shall be disposed of, nor shall any transfer of governmental function be made prior to such effective date, except by joint agreement of the legislative bodies of the units of government, nor shall any funds be expended except in payment of the costs of operation of normal business of said township.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 81, Eff. Aug. 1, 1911;—CL 1915, 3316;—Am. 1917, Act 233, Eff. Aug. 14, 1917;—CL 1929, 2249;—CL 1948, 117.13;—Am. 1952, Act 35, Eff. Sept. 18, 1952;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.14 Incorporation or annexation.

Sec. 14. Whenever an incorporated village is incorporated as a city, without change of boundaries, such city shall succeed to the ownership of all the property of such village and shall assume all of its debts and liabilities. Whenever a city, village or township is annexed to a city, the city to which it is annexed shall succeed to the ownership of all the property of the city, village or township annexed, and shall assume all of its debts and liabilities. Whenever a part of a city, village or township is annexed to a city, the real property in the territory annexed which belongs to the city, village or township from which it is taken shall be sold by the authorities of the city, village or township in which said land was located before such annexation, and that portion of the proceeds of such sale shall be paid to the city acquiring such territory which shall be in the same ratio to the whole amount received as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a part of a city, village or township is annexed to a city, all of the personal property belonging to any such city, village or township from which territory is detached shall be divided between the township, city or village from which said territory is detached and the city to which the territory is annexed, in the same ratio as the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which said territory is taken. Whenever a new city shall be incorporated, the personal property of the township from which it is taken shall be divided and its liabilities assumed between such city and the portion of the township remaining after such incorporation, which incorporation shall be effective as of the date of filing the certified copy of the charter as hereinafter provided, in the same ratio as herein provided in case of the annexation of a part of a township to a city, and any real property of a township located in such new city shall be held jointly by such city and the remaining portion of the township in the ratio above mentioned. Such real estate shall be subject to sale by agreement of the governmental units or may be partitioned in the manner provided by law for partitioning of lands held by persons as tenants in common: Provided, That no cemetery within such territory shall be sold; but to the extent it is owned by the city, village or township within which it is located, it shall become the property of the city to which it is annexed.

Whenever a new city is incorporated from part of a township or townships, such city shall be entitled to its pro rata share of the amount thereafter due such township or townships or due any county agency in respect of population in such township or townships from any future distribution of gasoline and motor vehicle weight tax revenues, intangibles tax revenues, state alcoholic liquor tax revenues, or any other state funds, moneys or grants which, by law, now or hereafter, are required to be distributed among cities, villages, townships and/or counties of the state, which pro rata distribution shall be determined as follows, to-wit:

(1) According to the latest federal census prior to date of distribution but since such annexation, if there be such census, showing the respective population of the township or townships and the municipalities affected;

(2) In the absence of such federal census, an official special census shall be taken of the areas detached from each township to form the newly incorporated city and of the entire township or townships from which such area was detached. Such census shall be taken by enumerators appointed by the secretary of state upon application by any one of the municipalities affected by such incorporation, which census shall be taken, as near as may be, in accordance with the provisions of section 6 of this act; the ratio of population between the areas incorporated from each township to form the newly incorporated city and the remainder of the respective township or townships from which the city was incorporated, shall be the basis for determination of the pro rata share of the state funds, moneys or grants to be distributed.

The township or townships from which such incorporated city is incorporated or the county agency receiving the funds, moneys or grants in respect of population in such township or townships shall be liable to the incorporated city for its proper pro rata share of any state funds, moneys or grants received by such township or townships or such county agency, respectively, after the date of incorporation;

(3) In the absence of such federal census and in lieu of an official special census determining the respective populations of the municipalities affected by such incorporation, the newly incorporated city and each township from which the same was incorporated, may agree, by joint resolution, as to the prorating between them and between the city and any county agency receiving state funds, moneys or grants in respect of population in such township or townships of any funds, moneys or grants distributable by the state, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties affected by said incorporation.

Whenever a part of a city, village or township is annexed to a city, the city to which such territory is annexed shall be entitled to its proper pro rata share of any of the said state funds, moneys or grants thereafter distributable under the law to the city, village or township from which said territory was detached or to any county agency receiving state funds, moneys or grants in respect to population in such township or townships, determined as follows:

(1) According to ratio of population between the area annexed and the remainder of the township, city or village from which said area was detached, as determined by the latest official federal or state census showing such populations;

(2) If there be no official census by which said respective populations can be determined, then a census shall be taken of the territory detached and the remainder of the territory in the township, city or village from which it was detached as provided above in the case of a newly incorporated city;

(3) In the absence of such federal census and in lieu of taking an official special census, the city to which said territory was annexed and the cities, townships, or villages from which said territory was detached, may agree by joint resolution of their governing bodies as to the prorating of any such state funds, moneys, or grants between them and between the city and any county agency receiving said funds, moneys, or grants in respect to population in such township or townships as provided above in the case of a newly incorporated city, a certified copy of which joint resolution shall be filed with the secretary of state and shall thereafter be binding upon all parties to said incorporation.

The foregoing provisions shall be used hereafter in determining the pro rata distributions of any state funds, moneys or grants between townships or county agencies and any city which has become newly incorporated or annexed territory since the latest decennial federal census, either before or after the passing of this law; but in no event shall the sharing of any distribution of state funds, moneys or grants made previous to the effective date of this act be altered.

The indebtedness and liabilities of every city, village and township, a part of which shall be annexed to a city shall be assumed by the city to which the same is annexed in the same proportion which the assessed valuation of the taxable property in the territory annexed bears to the assessed valuation of the taxable property in the entire city, village or township from which such territory is taken. Assessed valuation shall be determined in every division pursuant to this section from the last assessment roll of the city, village or township which has been confirmed by the board of review.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3317;—Am. 1917, Act 225, Eff. Aug. 10, 1917;—CL 1929, 2250;—Am. 1931, Act 233, Eff. Sept. 18, 1931;—Am. 1947, Act 53, Imd. Eff. Apr. 18, 1947;—CL 1948, 117.14;—Am. 1951, Act 158, Imd. Eff. June 6, 1951;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.15 Election on question of intent to incorporate or consolidate; electors as members of charter commission; notice; preparation, form, and contents of ballot; expenses; procedure; canvass; certification of election; oath; vacancies; quorum; convening of charter commission; framing charter; conducting business at public meeting; notice of meeting; officers; rules; journal; roll call; nomination of candidates; holding election; publication of proposed charter; publishing and posting notice of election; polling places; canvassing results.

Sec. 15. (1) At an election on the question of the intent to incorporate a new city, or to make a consolidation permitted by this act, each elector residing within its proposed territorial limits shall be entitled to vote for 9 electors, residing in the territory which it is proposed to incorporate or consolidate, as members of a charter commission, and the notices required by section 10 shall include notice of the election of those electors. The ballot shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which the greater portion of the territory is located. The expense of the ballot preparation is to be borne by that county. If the proposed city is incorporated as provided in this act, the county shall be reimbursed by the city at the time the charter is filed. The county clerk shall prepare the ballot to be used at the election pursuant to the general election laws of the state as follows:

For city incorporation. Yes()

For city incorporation. No ()

Or, if the proposition be to consolidate, the ballot shall be as follows:

For consolidating (naming entities) into 1 city. Yes()

For consolidating (naming entities) into 1 city. No ()

(2) The county clerk shall also prepare a separate ballot and place on the ballot, without party designation, under the heading, candidates for members of the charter commission, the names of the electors having the qualifications required by this act for a member of the charter commission, who file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that their names be placed on the ballot. For a consolidation, the electors of each city, village, township, or part of a township, proposed to be consolidated shall vote for and elect the number of the 9 members of the charter commission as shall be substantially in proportion to the number of registered electors of the city, village, township, or part of a township, according to the registration rolls of the last regular state, city, or village election held in the city, village, township, or part of a township, but the number to be elected in a city, village, or township shall not be less than 1. The county board of commissioners or the secretary of state shall determine and prescribe the number of members of the charter commission to be elected from each city, village, township, or part of a township in the case of a consolidation, pursuant to this subsection. The position of the names of the candidates upon the ballots shall be interchanged as provided in the general primary election law of this state. The ballot shall also bear instructions directing that not more than 9 candidates shall be voted for or, if the proposition is to consolidate, the ballot for members of the charter commission in each city, village, township, or part of a township, proposed to be consolidated shall bear instructions directing that not more than the number of candidates determined by the county board of commissioners or the secretary of state to be elected in the city, village, township, or part of a township shall be voted for. On the vote being canvassed on the question of the intent to incorporate or consolidate, if the result is determined to be in favor of the intent to incorporate or consolidate, the board of canvassers shall canvass the votes cast for members of the commission, and certify the election of the 9 persons receiving the highest number of votes cast. The elected members of the commission shall take the constitutional oath of office, and may fill vacancies in their membership. Five members shall constitute a quorum.

(3) The charter commission shall convene within 10 days after election and frame a charter for the proposed city within 90 days after the meeting. The business which the charter commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976. Notice of the time, place, and date of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The charter commission shall choose its own officers, determine the rules of its proceedings and keep a journal. A roll call of its members on a question shall be entered on the journal at the request of any member. The commission shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. The commission shall fix the date of the first city election, and do and provide other things necessary for making the nominations and holding the election. The election may be held at a special election or on the same date as a general election. The commission shall publish the proposed charter in 1 or more newspapers published in the proposed city, at least once, not less than 2 weeks and not more than 4 weeks preceding the election, together with a notice of the election, and that on the date fixed for the election the question of adopting the proposed charter will be voted on, and that the elective officers provided for in the charter will be elected on the same date. Notice of the election shall also be posted in at least 10 public places within the proposed city not less than 10 days before the election. The commission shall provide for 1 or more polling places for the election, and give similar notice of their location as is given of the election, and shall appoint the inspectors of the election. The results of the election shall be canvassed by the county board of canvassers.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3318;—CL 1929, 2251;—CL 1948, 117.15;—Am. 1956, Act 77, Eff. Aug. 11, 1956;—Am. 1965, Act 378, Imd. Eff. July 23, 1965;—Am. 1966, Act 246, Eff. July 11, 1966;—Am. 1977, Act 204, Imd. Eff. Nov. 17, 1977.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.16 Incorporation; rejection of charter; de facto mayor, duties; resubmission of charter, procedure; effect of nonadoption within two years of election to incorporate.

Sec. 16. If the proposed charter be rejected at such election the election of officers shall be void, except that the elector who shall receive the highest number of votes cast for the office of mayor shall nevertheless be a de facto officer of such proposed city, until a mayor for such proposed city is elected and qualified pursuant to a charter of which the electors have approved, and the mayor so elected shall, after the lapse of 10 days within which petitions for the selection of a new charter commission may be filed as hereinafter stated, if such petition has not been filed with him, by notice, require the said charter commission to reconvene and within 90 days after such notice provide such revision, amendment or amendments to the original draft of the charter previously prepared by them as to them shall seem fit. The proposed charter, with such amendment or amendments, shall be resubmitted to the qualified electors of said proposed city in the same manner and with

like notice and proceedings as required in the first instance, which proceedings shall continue until the qualified electors of said proposed city have, by a majority vote, approved a charter for said proposed city: Provided, That any such proposed charter, as originally submitted or resubmitted with any such amendment or amendments, shall be submitted not to exceed 3 times to the qualified electors of said proposed city, and if rejected 3 times, or in the event that no charter is or has been adopted by the electors of said proposed city during a period of 2 years following the election on the question of the incorporation of said proposed city, the township clerk of the township in which said proposed city is located, or of that township having the largest portion of the population thereof, shall certify such fact to the secretary of state and to the county clerk, register of deeds, and circuit court of the county in which said proposed city is located, and the territory of said proposed city shall thereupon revert to the status existing prior to the filing of the petition required by section 6 of this act, and the office of each charter commissioner and de facto officer of the proposed city shall terminate and cease to exist, and any sum of moneys deposited with the county clerk according to section 6 of this act shall be paid by the county clerk into the general fund of the county.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3319;—CL 1929, 2252;—Am. 1947, Act 201, Eff. Oct. 11, 1947;—CL 1948, 117.16;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

THE HOME RULE CITY ACT (EXCERPT) **Act 279 of 1909**

117.17 Incorporation; new charter commission, petition, procedure, eligibility, duties, expenses; control of territory pending adoption; date of incorporation; voting franchise.

Sec. 17. In cases where the qualified electors of a proposed city shall reject a proposed charter, any 300 electors of said proposed city may petition the de facto mayor for the selection of a new charter commission, and if said petition shall be filed with the de facto mayor of said proposed city on or before the expiration of 10 days from the canvass and determination of the vote on said charter, the de facto mayor of said proposed city shall, if said petition is signed by the requisite number of electors, certify such fact upon said petition and forthwith file the same with the county clerk or secretary of state, depending upon the office in which the original petition was filed, and such county clerk or secretary of state as the case may be, shall give notice of the filing of such petition in the same manner as upon the filing of the original petition and an election shall be called and held and a new charter commission shall be elected in the same manner as in the first instance. The duties of the new charter commission shall be the same as those of the former commission, and as many such successive commissions as necessary may be held in like manner until a charter for such proposed city is framed and approved by the electors thereof. All persons who have served on previous charter commissions within 1 year shall be ineligible as members of every such commission. The first legislative body assembled pursuant to a charter adopted by the electors of such city, shall provide for the payment of the necessary expenses incurred by the county and by the members of such commission or commissions, but the members of the commission shall receive no compensation for their services. The county clerk shall return any unexpended sum of money deposited under section 6 of this act to the depositor. The territory constituting the city shall remain under the control and management of the respective cities, villages and townships from which it was taken and the authority of the officers of such city, villages and townships shall continue until the charter of the new city has been adopted and the officers have been elected and qualified as herein provided. No new city shall be deemed to be incorporated until a charter has been adopted and duplicate printed copies certified by the clerk filed in the office of the county clerk. The county clerk shall forthwith forward 1 copy to the secretary of state, and the date it is received shall be the date of incorporation of the new city. The general voting franchise of no qualified elector shall be lost because of the incorporation, annexation or consolidation processes and his voting rights where last eligible shall be unimpaired by the incorporation, annexation or consolidation processes.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3320;—CL 1929, 2253;—CL 1948, 117.17;—Am. 1956, Act 77, Eff. Aug. 11, 1956.

THE HOME RULE CITY ACT (EXCERPT) **Act 279 of 1909**

117.18 Incorporation; revision of charter, procedure, commission, advisory vote; incorporation of provision in original charter granted by legislature.

Sec. 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter; when its legislative body shall by a 3/5 vote of the members elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor as provided in section 25, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election. In case the electors shall, by a majority vote,

declare in favor of such revision, a charter commission shall be elected within 60 days consisting of 9 electors of such city having a residence of at least 3 years in the municipality, or the legislative body by a 3/5 vote of the members elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted. No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

In the cities where provision is made by the city charter for the nonpartisan elections of city officers, the method prescribed for such elections shall apply in the election of charter commissioners. Where no such provision is made by the charter of such city, candidates shall be nominated by petition without reference to or designation of party affiliation, signed by a number of qualified electors of such city equal to not less than 2% and not more than 4% of the total vote cast for the chief executive office, or the highest vote cast for any commissioner in cities having the commission form of government, of such city at the last preceding election, asking that the name of the candidate designated be placed upon the ballot. The names of all candidates so nominated shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the 9 candidates having the greatest number of votes shall be declared elected; the election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the election of city officers in the respective cities of this state unless special methods shall be otherwise provided in the charter of such city.

If the proposed revised charter is rejected by the electors of the city, the charter revision commission shall immediately reconvene and determine whether to take no further action, in which case it shall terminate and cease to exist, or whether to provide a revision of, or amendments to, the revised charter previously prepared by the commission. The proposed revised charter with amendments shall be resubmitted to the qualified electors of the city in the same manner and with like notice and proceedings as required in the first instance. A proposed revised charter, as originally submitted or resubmitted with amendments, shall be submitted not to exceed 3 times to the qualified electors of the city. If the charter is rejected 3 times, or if no revised charter is adopted during 3 years following the adoption of the proposition to revise, then the charter revision commission shall terminate and cease to exist. A new proposal to revise may be adopted at any time after termination of a charter revision commission.

When the question of having a general revision of the charter shall be submitted to the electors of any city, the legislative body of such city or the initiative petitions may provide for the submission with such question for an advisory vote of the question of a change in the form of government of such city, or the question of continuing any power, limitation or provision granted to such city in a charter granted or passed by the legislature for the government thereof. When such advisory vote is requested in an initiatory petition, such question shall be submitted as hereinbefore provided. In the revision of the charter of any city, any power, limitation or provision granted to such city in any charter granted or passed by the legislature for the government of such city and contained in the charter to be revised may be included in such revised charter, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when granted or passed by the legislature in the first instance.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3321;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—CL 1929, 2254;—Am. 1941, Act 86, Eff. Jan. 10, 1942;—CL 1948, 117.18;—Am. 1966, Act 246, Imd. Eff. July 11, 1966.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter: When its legislative body shall by a two-thirds vote of the members-elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor, as provided in section twenty-five of this act, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election in case the electors shall, by a majority vote, declare in favor of such a revision, a charter commission shall be selected within sixty days consisting of one elector from each ward and three electors at large, having a residence of at least three years in the municipality, or the legislative body by a two-thirds vote of the members-elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted; no city officer or employee, whether elected or appointed, shall be eligible to a place on said commission. The names of all candidates who have been duly nominated as hereinafter provided shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the candidate having the greatest number of votes in each ward shall be declared elected and the three candidates at large having the greatest number of votes cast in the city shall be declared elected; the nomination and election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the nomination and election of city and ward officers in the respective cities of this State."

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.19 Charter; duty of legislative body.

Sec. 19. The legislative body of the municipality unless it is otherwise provided, shall fix in advance of the election of a charter commission the place of its meeting, the compensation of its members, the money for the expense thereof, and if need be provide the ballots for election.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3322;—CL 1929, 2255;—CL 1948, 117.19.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 19. The legislative body of the municipality (shall provide for the election of said charter commission at the next general or municipal election to be held in said municipality, if there shall be a general or municipal election within sixty days after such legislative body or the electors of said municipality shall have declared for such general revision in the manner provided in the preceding section, and if there shall be no such general election within said sixty days, then said legislative body shall within ten days after such declaration, call a special election for the selection of such charter commission to be held within sixty days and) shall fix in advance of the election of such charter commission the place of its meeting, the compensation of its members, and provide the money for the expense thereof and if need be, provide the ballots for election."

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.20 Charter commission; first meeting; duties of city clerk; powers and duties of commission; roll call; vacancy; compensation; quorum; public sessions.

Sec. 20. The charter commission shall convene on the second Tuesday after the election at the place designated pursuant to section 19. The city clerk shall preside at the first meeting, shall administer the oath of office to the members-elect, and shall act as clerk of the commission. The charter commission shall be the sole judge of the qualifications, elections, and returns of its members, shall choose its officers except clerk, shall determine the rules of its proceedings, and shall keep a journal. A roll call of the members on a question shall be entered on the journal at the request of 1/5 of the members or less if the commission shall so determine. The commission may fill a vacancy in its membership, and shall fix the time for the submission of the charter to the electors. A member shall not receive compensation for more than 90 meetings of the commission, and only for actual attendance. A member of the commission shall not be paid for more than 1 meeting per day. A majority of the members shall constitute a quorum, and the sessions of the commission shall be public.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—CL 1915, 3323;—CL 1929, 2256;—CL 1948, 117.20;—Am. 1977, Act 27, Imd. Eff. June 8, 1977.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 20. The charter commission shall convene on the second Tuesday after the election at the place designated therefor. The city clerk shall preside at the first meeting, shall administer the oath of office to the members-elect, and shall act as clerk of the commission. It shall be the sole judge of the qualifications, elections and returns of its own members, choose its own officers, except clerk, determine the rules of its proceedings and keep a journal. A roll call of its members on any question shall be entered on the journal at the request of one-fifth of its members or less if it shall so determine. It may fill any vacancy in its membership, and it shall fix the time for the submission of the charter to the electors. No members shall receive compensation for more than ninety days and only for actual attendance. A majority of all the members shall constitute a quorum and its sessions shall be public. The commission may submit with the charter, independent sections or propositions, and such of them as shall receive the approval of a majority of the electors voting thereon shall become a part of the charter if the charter is adopted by the electors."

Former law: See Act 279 of 1909.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.21 Charter amendment; procedure.

Sec. 21. (1) An amendment to an existing city charter, whether the charter was adopted under this act or formerly granted or passed by the legislature for the government of a city, may be proposed by the legislative body of a city on a 3/5 vote of the members-elect or by an initiatory petition. If the amendment is proposed by the legislative body of the city, the amendment shall be submitted to the electors of the city at the next regular municipal or general state election, or at a special election, held not less than 60 days after the proposal of the amendment. If the amendment is proposed by an initiatory petition, the amendment shall be submitted to the electors of the city at the next regular municipal or general state election held in the city not less than 90 days after the filing of the petition.

(2) Proposed charter amendments and other questions to be submitted to the electors shall be published in full with existing charter provisions that would be altered or abrogated by the proposed charter amendment or other question. The purpose of the proposed charter amendment or question shall be designated on the ballot in not more than 100 words, exclusive of caption, that shall consist of a true and impartial statement of the purpose of the amendment or question in language that does not create prejudice for or against the amendment or question. The text of the statement shall be submitted to the attorney general for approval as to compliance

with this requirement before being printed. In addition, the proposed charter amendment in full shall be posted in a conspicuous place in each polling place. The form in which a proposed charter amendment or question shall appear on the ballot, unless provided for in the initiatory petition, shall be determined by resolution of the legislative body, and if provided for by the initiatory petition, the legislative body may add an explanatory caption.

(3) A proposed charter amendment shall be confined to 1 subject. If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each proposition. If a proposed charter amendment is rejected at an election, the amendment shall not be resubmitted for a period of 2 years.

(4) A city charter formerly granted by a different act of the state legislature, including the charter of a city of the fourth class, that adopts or comes under any part of this act by amendment under this section, and not by general revision, adoption, or incorporation under this act, may again be amended under this section, as to the part or parts that are amended, by re-enacting under this section that part or parts of the original act of incorporation that existed before any amendment was made under this act. The part or parts of the original act of incorporation that are re-enacted shall not be construed as operating or coming under the provisions of this act in any manner, it being the intention to permit a city described in this subsection, to adopt by amendment any part of the provisions of this act permissible or to withdraw from the provisions of this act.

(5) Propositions and questions shall be proposed, initiated, submitted and canvassed in a manner similar to that provided for charter amendments.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3324;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1917, Act 40, Eff. Aug. 10, 1917;—Am. 1917, Act 232, Imd. Eff. May 10, 1917;—Am. 1919, Act 403, Eff. Aug. 14, 1919;—Am. 1929, Act 279, Eff. Aug. 28, 1929;—CL 1929, 2257;—Am. 1939, Act 279, Eff. Sept. 29, 1939;—Am. 1947, Act 1, Imd. Eff. Jan. 23, 1947;—Am. 1947, Act 87, Imd. Eff. May 12, 1947;—CL 1948, 117.21;—Am. 1955, Act 117, Eff. Oct. 14, 1955;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 21. Any existing charter, whether passed pursuant to the provisions of this act or by the State legislature, may from time to time be amended as follows: An amendment may be proposed by the legislative body on a two-thirds vote of the members-elect or by an initiatory petition as herein provided, and shall be submitted to the electors as herein provided at the next general or special election. When it originates in the legislative body it shall be published and remain on the table for thirty days before action is taken thereon. The form in which any proposed amendment shall be submitted on the ballot, unless provided for in the initiatory petition, shall be determined by the legislative body."

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.22 Charter amendment; submission to governor, approval; re-consideration.

Sec. 22. Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall re-consider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3325;—CL 1929, 2258;—CL 1948, 117.22.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.23 Publication of proposed charter and amendments; submission of charter and separate propositions to electors; adoption; ballot.

Sec. 23. (1) A proposed city charter and each amendment to an existing city charter before submission to the electors, shall be published as the charter commission or the legislative body may prescribe. A proposed charter may be submitted to the qualified electors as an entirety in a single proposition substantially as follows: "Shall the city charter proposed by the city charter commission be adopted?" Adoption of a proposed charter shall require a simple majority of those voting on the question.

(2) When submitting a proposed charter, separate propositions, on specific charter provisions may also be submitted to the qualified electors. In such case, all propositions shall be in such form as are approved by the attorney general as to clarity and impartiality. If the proposed charter and any of the separate propositions are

adopted, the new charter shall take effect with the alternatives or additions contemplated by such separate propositions as are adopted. Adoption of a separate proposition which is an alternative to a provision contained in the proposed charter shall require approval by a majority of those voting on the separate proposition and also a majority of those voting on the proposed charter; otherwise the adoption of a separate proposition shall require a simple majority. The ballot shall contain voting instructions and a brief explanation of the effect of each of the propositions.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3326;—CL 1929, 2259;—CL 1948, 117.23;—Am. 1971, Act 223, Imd. Eff. Dec. 30, 1971.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.24 Charters or amendments; filing; effective date.

Sec. 24. If the charter, or any amendment thereto, whether of cities incorporated under the provisions of this act, or under an existing charter of the city heretofore granted or passed by the legislature for the government of the city, be approved, then 2 printed copies thereof, with the vote for and against duly certified by the city clerk shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk of the county in which such city is located and shall thereupon become law, unless a different date for the taking effect of such charter or charter amendment, or any part thereof, is specifically set forth therein.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3327;—CL 1929, 2260;—Am. 1941, Act 175, Eff. Jan. 10, 1942;—CL 1948, 117.24.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.25 Initiatory petition; filing with city clerk; contents; verification; signatures and inscriptions; perjury and other felonies; punishment; canvass; certifying sufficiency or insufficiency of petition; causing proposed amendment to be submitted to electors; calling special election; submitting proposal at primary, regular, or special election called for other purposes; initiative proposal receiving majority of votes; proposal contemplating increased expenditure of funds; proposal increasing ad valorem property tax limitation; effective date; tax levy; action against city clerk.

Sec. 25. (1) An initiatory petition authorized by this act shall be addressed to and filed with the city clerk. The petition shall state what body, organization, or person is primarily interested in and responsible for the circulation of the petition and the securing of the amendment. Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition. The petition shall be signed by at least 5% of the qualified and registered electors of the municipality. Each signer of the petition shall also write, immediately after his or her signature, the date of signing and his or her street address. A signature obtained more than 1 year before the filing of the petition with the city clerk shall not be counted. The petition is subject to the requirements of section 25a.

(2) A person who willfully affixes another's signature, or subscribes and swears to a verification that is false in any material particular, is guilty of perjury. A person who takes the oath of another to the petition not knowing him or her to be the same person he or she represents himself or herself to be or knowing that the petition or any part of it is false or fraudulent in any material particular, or who falsely represents that the proposed amendment is proposed by persons other than the true sponsors, is guilty of a felony and is liable for the same punishment as provided for perjury.

(3) Upon receipt of the petition, the city clerk shall canvass it to ascertain if it is signed by the requisite number of registered electors. For the purpose of determining the validity of the petition, the city clerk may check any doubtful signatures against the registration records of the city. Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency of the petition. If the petition contains the requisite number of signatures of registered electors, the clerk shall submit the proposed amendment to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

(4) If the petition contains the signatures of 20% or more of the persons residing in and registered to vote in the city as of the date when they signed it, and the petition requests submission of the proposal at a special election, the city clerk, within 90 days after the date of the filing of the petition, shall call a special election to be held on the next regular election date that is not less than 120 days after the petition was filed. Other proposals, whether initiated by a 5% petition or proposed by the legislative body within the times within this

act provided, may be submitted at that election. A proposal submitted to the electors by the initiative and receiving an affirmative majority of the votes cast on the proposal shall not be held unconstitutional, invalid, or void on account of the insufficiency of the petition by which the proposal was submitted.

(5) Except as provided by subsection (6), any proposal adopted by the electors that contemplates increased expenditure of funds by the municipality shall become effective only at the beginning of that fiscal year of the municipality commencing not earlier than 60 days following the election at which the proposal was approved by the electors.

(6) If a proposal that increases the city's ad valorem property tax limitation applies, by its terms, for a specific year or period commencing before the date the proposal would otherwise take effect under subsection (5), the proposal shall be effective both from the date it is approved by the electors and retroactively for the year or period specified in the proposal. Notwithstanding a charter provision to the contrary, if a proposal is approved by the electors and given effect under this subsection after the city has levied its ad valorem property tax levy for the fiscal year and if the adopted proposal authorizes the levy of a millage rate for the fiscal year during which the proposal was approved in excess of the rate the city was authorized to levy before adoption of the proposal, the city may levy an additional tax. The additional tax shall be collected either by a supplementary billing by the city or at the same time and in the same manner the county's ad valorem property tax levy is collected.

(7) A person aggrieved by an action, or failure of action, of the city clerk may bring an action against the clerk in the circuit court for writ of mandamus or for other appropriate relief.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3328;—Am. 1917, Act 6, Imd. Eff. Mar. 9, 1917;—Am. 1919, Act 403, Eff. Aug. 14, 1919;—Am. 1927, Act 187, Eff. Sept. 5, 1927;—CL 1929, 2261;—Am. 1939, Act 279, Eff. Sept. 29, 1939;—Am. 1947, Act 87, Imd. Eff. May 12, 1947;—CL 1948, 117.25;—Am. 1969, Act 114, Imd. Eff. July 29, 1969;—Am. 1982, Act 200, Imd. Eff. July 1, 1982;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 25. The initiatory petitions herein referred to shall be signed at the regular registration or election places at a regular registration or election under the supervision of the officials thereof, who shall verify the genuineness of the signatures and certify the fact that the signers are registered electors of the city and shall be filed with the city clerk. No person shall be deemed to be an elector under the provisions of this section except male electors whose names shall appear upon the registration books in such city. No such initiatory petition shall be effective unless signed by twenty-five per cent of the registered voters entitled to vote for municipal officers."

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.26 Elections; general provisions; applicability of § 168.641.

Sec. 26. (1) All elections held under this act shall be paid for by the locality where held. Except as otherwise provided by law or ordinance, the legislative body of the city shall determine the publication and notice of the election.

(2) Notwithstanding another provision of this act or a charter provision, an election under this act is subject to section 641 of the Michigan election law, 1954 PA 116, MCL 168.641.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3329;—CL 1929, 2262;—CL 1948, 117.26;—Am. 2003, Act 303, Eff. Jan. 1, 2005.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.28 Charter change; laws in force; justice and police courts, justices, charter provisions, ordinances.

Sec. 28. In all cities now organized, which may hereafter amend or revise their charters under the provisions of this act, all of the provisions of the present law, whether general or special, applying to any such city relating to the qualifications, term of office, powers, jurisdiction, duties and compensation of justices of the peace and constables therein, and the conduct of all proceedings, suits and prosecutions before such justices of the peace and appeals therefrom, and all laws creating municipal courts and the proceedings thereof in any such city, shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers: Provided, That any city having a justice court and a police court or a justice court may, in or by amendment to its charter provide for the abolishment of said courts and the consolidation of the powers, jurisdictions and duties of said courts into 1 court to be presided over by 1 judge or justice, who is a qualified resident elector of the city in which election is sought, and who shall be an attorney admitted to practice law in the supreme court of this state immediately preceding the date of his appointment or election, and who shall be paid a salary by said city, in lieu of all fees, both in civil and criminal cases, to which said judge or justice might be entitled but for the provisions of this act, which fees in

civil cases shall be collected by said judge or justice and turned over by him to the city treasurer of said city on the first and fifteenth of each month, and which fees in criminal cases shall be charged and presented to and audited by the board of supervisors of the county in which said court is situated, in the same manner and amounts as provided by law in the case of justices of the peace in townships, and upon allowance by said board of supervisors, shall be paid monthly, by said county to the treasurer of said city for the use and benefit of said city, and who shall turn over to the county treasurer of such county all costs and fines in state criminal cases, and who shall turn over to the city treasurer of such city all costs and fines in city ordinance or charter cases, and who shall give bonds to such city and the county in which such city is located, in amounts to be fixed by such charter, and who, in the first instance, shall be appointed by the city commission or common council of such city to hold such office from the date when said courts, first above mentioned in this proviso, shall be abolished until his successor shall have been elected and qualified, as hereinafter set forth, and who shall be nominated and elected, as nearly as may be, in the manner the mayor of such city is nominated and elected, at the first general municipal primary and the first general municipal election following the adoption of such amendment of such charter, and at each such primary and election every 6 years thereafter, and whose term of office shall be 6 years, and shall commence on the first day of January following his election, and who shall be empowered to receive and take from said offices, so abolished, all files, records and dockets kept therein, appertaining to said offices, and who shall be empowered to issue executions according to law, upon any judgment appearing upon said dockets with the same effect as if said judgment had been rendered by him, and who shall have transferred to him any and all actions or proceedings pending in either of said offices so abolished, and who shall have full jurisdiction to proceed with such actions or proceedings in the same manner as if they had been brought before him originally, and who shall have the same powers, jurisdiction and duties, except as it shall be hereafter otherwise lawfully provided by charter, as are now conferred upon the justice and/or judge of the courts, first above mentioned in this proviso, and except as it is hereafter otherwise lawfully provided by charter, all of the provisions of the present law, whether general or special, applying to any such city and relating to appeals and to the conduct of all proceedings, suits and prosecutions, before either or both of the courts first above mentioned in this proviso, shall remain in full force and effect and shall be followed by such court and the judge or justice thereof into which they shall be so consolidated; and that any such city may also in its charter provide that the civil jurisdiction of such judge or justice ex contractu and ex delicto shall be increased to \$500.00 with such exceptions and restrictions as are provided by law; and that such city may also in its charter provide that such judge or justice shall have the same power and authority to set aside a verdict or judgment and grant a new trial therein, upon legal cause, therefor, as the circuit courts of the state possess: Provided, however, That a motion in writing be made and filed with the judge or justice before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and that such city may also in its charter provide that the city commission or common council shall fix the salary of such judge or justice; and such city may also in its charter provide that the city commission or the common council may provide for a clerk and 1 or more deputy clerks for such judge or justice to be paid such salary, give such bond and perform such duties as shall by ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of such judge or justice and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise and to enter a record of the same in books kept by him for that purpose and to pay over the same to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law, and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and all moneys received have been properly accounted for; and that such city may also in its charter provide that any cause pending before any such judge or justice may, whenever such judge or justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the justices of the peace of the county in which such city is located without any notice to the parties in such cause, but a note of

such transfer shall be entered upon the docket of the case, and when 2 or more judges or justices shall have acted in any 1 cause or proceeding, the docket shall be signed in the manner and within the time provided by law by the judge or justice who shall have given the final judgment in such cause; and such city shall provide for a court officer for such court who shall have all of the duties and powers of court officer in the circuit courts of this state; and such city may also in its charter provide that jury cases may be set for trial upon 1 or more certain days of each month, or as soon thereafter as such trial can be reached, and may establish terms for the trial of jury cases, and may provide that a panel of jurors shall be drawn and certified to the clerk of such court in the manner provided by law for the drawing of circuit jurors in the county in which such city is located, and may determine the number of jurors to be drawn for each panel to serve at each term of such court. The selection of jurors to serve in each case shall be made as nearly as may be, in the same manner as provided in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of peace in townships, and further that as soon as all jury cases set for any term, and ready for trial, shall have been disposed of, the panel of jurors called for said term shall be discharged: Provided, however, That when there is no jury in attendance in said court, the judge or justice thereof, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships; and such city may also in its charter provide that it shall be the duty of said judge or justice to instruct the jury as to the law applicable to the case, which instructions shall be received by the jury as the law of the case; and such city may also in its charter provide that such court shall be known as a municipal court and that said judge or justice shall be designated as municipal judge: Provided also, That any city may in its charter provide for and limit to 1 or more the number of justices of the peace for said city and may provide that the civil jurisdiction of such justice or justices ex contractu and ex delicto shall be increased to \$500.00 with such exceptions and restrictions as are provided by law; and may also provide that such justice or justices shall have the same power and authority to set aside the verdict or judgment and grant a new trial therein, upon legal cause shown, therefor, as the circuit courts of the state possess: Provided, however, That a motion in writing be made and filed with the justice, before whom such cause was tried, within 5 days after the rendition of the verdict or judgment in said case, which said motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by affidavits setting forth the facts relied upon to be filed at the time of filing the said motion, and notice of hearing of such motion, with copy of the motion and affidavits, filed as aforesaid, shall be served upon the adverse party or his attorney at least 2 days before the hearing thereof, and such motion shall be determined within 2 days after the same shall have been heard and submitted and such motion shall be submitted and heard within 1 week after the same shall have been filed, and the time for taking an appeal from judgment, in case such motion be not granted, shall begin to run from the time when such motion shall be overruled and in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of a levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion; and may also in its charter, or by ordinance, provide that any such justice or justices of the peace shall be paid a salary in lieu of fees, and the amount of said salary to be fixed by said charter or ordinance, in which case all fees chargeable by such justice of the peace shall be collected and paid over to such city; and that any city may also, in cases where its justice or justices of the peace have been placed on salary, provide in its charter or by ordinance for a clerk and 1 or more deputy clerks for such justice or justices of the peace to be paid such salary, give such bond and perform such duties as shall by charter or ordinance be prescribed and such clerk and deputy clerks shall also, by virtue of their office, be empowered to administer oaths to persons making affidavits for writs in civil causes and to issue all processes and test the same in the name of either or any of the justices of the peace of the city and shall be required to collect all fees in civil causes and all costs and fines in criminal causes and all moneys paid into court for security for costs, bail or otherwise, and to enter a record of the same in a book kept by him for that purpose and be paid over by him to the authorities of the city or county or other persons entitled to the same, as directed by the proper authorities or by law and the legislative body of such city shall cause the books of such clerks to be audited at least once each year to ascertain that such books are correctly kept and that all money received has been properly accounted for; and may also provide that any cause pending before any justice of the peace of said city may, whenever such justice is unable to act in such cause at the time the matter comes before him, be transferred upon his order or, in case of his absence, by the clerk to 1 of the other justices of the peace of such city without any notice to the parties in the cause, but a note of such transfer shall be entered upon the docket of the case and when 2 or more justices shall have acted in any 1 cause or proceeding the docket shall be signed in the manner and within the time provided by law by the justice who shall have given the final judgment in such cause; and, in cases where such justices have been placed on salary and a clerk or clerks have been provided, such city may, by charter or ordinance, provide that jury cases may be set for trial upon 1 or more certain days of each

month, or as soon thereafter as such trial can be reached, and to establish terms for the trial of jury cases and may provide that a panel of jurors shall be drawn and certified to the clerk of such justice court in the manner provided by law for the drawing of circuit court jurors in the county where such city is located, and shall determine the number of jurors to be drawn for each panel to serve at each term of such justice court. The selection of jurors to serve in each case shall be made, as nearly as may be, in the same manner as provided in circuit courts, but the trial of such cause by jury shall be otherwise conducted as provided by law for trials by jury before justices of the peace in townships, and further that as soon as all jury cases set for any term, and ready for trial, shall have been disposed of, the panel of jurors called for said term shall be discharged: Provided, however, That when there is no jury in attendance in said court the justice thereof, in order to avoid hardship from delay, may, in his discretion, order a jury impaneled in accordance with the method provided by law to secure a jury in trials before justices of the peace in townships.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1911, Act 203, Eff. Aug. 1, 1911;—Am. 1915, Act 82, Eff. Aug. 24, 1915;—CL 1915, 3331;—Am. 1917, Act 275, Eff. Aug. 10, 1917;—Am. 1919, Act 118, Eff. Aug. 14, 1919;—Am. 1927, Act 32, Imd. Eff. Apr. 12, 1927;—CL 1929, 2264;—CL 1948, 117.28;—Am. 1954, Act 75, Eff. Aug. 13, 1954;—Am. 1965, Act 359, Eff. Mar. 31, 1966.

Compiler's note: Act 203 of 1911, which amended this section, was held unconstitutional and void. See note to § 117.1.

The 1911 amendment reads as follows: "Sec. 28. In all cities now organized, which may hereafter amend or revise their charters under the provisions of this act, all of the provisions of the present law, whether general or special, applying to any such city relating to the qualifications, term of office, powers, jurisdiction, duties and compensation of justices of the peace and constables therein, and the conduct of all proceedings, suits and prosecutions before such justices of the peace, and appeals therefrom, and all laws creating municipal courts and the proceedings thereof in any such city, shall remain in full force and effect, except as to the time and manner of nomination and elections of judges, justices and court officers."

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.29 Recovery and enforcement of fines, penalties, and forfeitures; violations; administrative hearings.

Sec. 29. (1) Except as provided in subsection (2), the district court, a municipal court, or the circuit court, as provided by law, may hear, try, and determine actions and prosecutions for the recovery and enforcing of fines, penalties, and forfeitures imposed by the charter and ordinances of the city, and sanction offenders for the violation of the charter and ordinances, as is prescribed and directed in the charter or ordinances.

(2) Pursuant to section 4q, a city may provide for an administrative hearings bureau to adjudicate alleged violations of ordinances and impose sanctions consistent with this act.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3332;—CL 1929, 2265;—CL 1948, 117.29;—Am. 1978, Act 191, Imd. Eff. June 4, 1978;—Am. 1994, Act 17, Eff. May 1, 1994;—Am. 2003, Act 318, Imd. Eff. Jan. 12, 2004.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.30 Appeal to circuit court; recognizance or bond.

Sec. 30. In all actions and prosecutions arising under the charter and ordinances of the city the right of appeal to the circuit court of the county, or to a court having jurisdiction, shall be allowed to a party, and the same recognizance or bond shall be given as is or may be required by law in analogous cases on appeal from the court that tried the city charter or ordinance violation.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3333;—CL 1929, 2266;—CL 1948, 117.30;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.31 Disposition of fines.

Sec. 31. All fines collected or received by the district court for or on account of violations of the charter or ordinances of the city, shall be distributed by the district court pursuant to section 8379 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8379 of the Michigan Compiled Laws. All fines collected or received by a municipal court or the traffic and ordinance division of the recorder's court of the city of Detroit, for or on account of violations of the charter or ordinances of the city, shall be paid over to the city treasurer.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3334;—CL 1929, 2267;—CL 1948, 117.31;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

THE HOME RULE CITY ACT (EXCERPT)

Act 279 of 1909

117.32 Constables; election or appointment; powers and duties; salary; fees; provisions inapplicable to certain cities; compliance with minimum employment standards.

Sec. 32. (1) Except as provided in subsection (3), there may be elected or appointed in each city 1 or more constables who shall have the same powers and authorities in civil and criminal matters, and in relation to the service of process, civil and criminal, as are conferred by law on constables in townships. A city, by ordinance, may abolish, restrict, and limit the authority conferred upon a constable by law, except that a city constable may be appointed by a district court as a district court officer and may perform duties permitted pursuant to chapter 83 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being sections 600.8301 to 600.8395 of the Michigan Compiled Laws. Except as otherwise provided in section 8707 of Act No. 236 of the Public Acts of 1961, being section 600.8707 of the Michigan Compiled Laws, and section 742 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.742 of the Michigan Compiled Laws, a constable shall serve all process issued for breaches of ordinances of the city. A city may by ordinance provide for the appointment of additional constables except that the maximum number of persons who may be appointed as constables shall not exceed the number of elected constables provided for in the charter of the city on September 23, 1949. An appointed or elected constable may be paid a salary in addition to fees.

(2) This section does not apply to a city that has a population of 500,000 or more.

(3) A constable shall serve all warrants, notices, and process lawfully directed to the constable by the city and shall perform other duties required of a constable by law. A city, by ordinance, may restrict or limit the duties of a city constable prescribed by law. If the city requires the constable to perform both statutory criminal and civil duties, a person elected or appointed to the office of city constable shall fulfill the minimum employment standards established by the law enforcement council pursuant to section 9 of the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, as amended, being section 28.609 of the Michigan Compiled Laws. The cost of complying with these standards shall be borne by the city.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3335;—CL 1929, 2268;—CL 1948, 117.32;—Am. 1949, Act 71, Eff. Sept. 23, 1949;—Am. 1971, Act 26, Imd. Eff. May 13, 1971;—Am. 1976, Act 408, Imd. Eff. Jan. 9, 1977;—Am. 1994, Act 17, Eff. May 1, 1994.

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.33 Constables; election, qualification, and compensation.

Sec. 33. The provisions of the general law applying to the election, qualification, and compensation of constables in townships shall apply to the constables provided for in section 32 except that in the first instance they shall be elected at the first election at which other city officers are chosen and the first incumbents shall hold office only until the next regular election for the officers as fixed by the state law.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3336;—CL 1929, 2269;—CL 1948, 117.33;—Am. 1978, Act 191, Imd. Eff. June 4, 1978.

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.34 Police officers; powers.

Sec. 34. When any person has committed or is suspected of having committed any crime or misdemeanor within a city, or has escaped from any city prison, the police officers of the city shall have the same right to pursue, arrest and detain such person without the city limits as the sheriff of the county.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3337;—CL 1929, 2270;—CL 1948, 117.34.

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.35 Acquisition of property; condemnation or purchase proceedings.

Sec. 35. Any city may acquire by purchase or condemnation proceedings any lands within or without its corporate limits necessary for disposing of sewage or for obtaining or protecting a water supply for the city and the inhabitants thereof, and may acquire by purchase or condemnation proceedings when authorized by the electors of such city any public utility and any water power and water rights for the use of such city within the corporate limits of said city. The jury in condemnation proceedings shall consist of 12 freeholders drawn from the body of the county and if they find the necessity for such use exists and, in case of sewage that the use proposed will not materially injure the health or safety of persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law

authorizing cities and villages to take or hold land or property outside of their corporate limit as contained in chapter 90 of the Compiled Laws of 1897, or any other appropriate act now or hereafter existing.

History: 1909, Act 279, Eff. Sept. 1, 1909;—Am. 1913, Act 5, Imd. Eff. Mar. 11, 1913;—CL 1915, 3338;—CL 1929, 2271;—CL 1948, 117.35.

Compiler's note: Chapter 90, referred to in the last sentence, was repealed by Act 120 of 1967. See now § 213.21 et seq.

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.36 Charter provisions; conflict.

Sec. 36. No provision of any city charter shall conflict with or contravene the provisions of any general law of the state.

History: 1909, Act 279, Eff. Sept. 1, 1909;—CL 1915, 3339;—CL 1929, 2272;—CL 1948, 117.36.